D.B. CIVIL SPECIAL APPEAL(W)No.666/2006
Heera Lal Vs.State of Rajasthan & Ors.

Date of Order :: 13-03-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE GOVIND MATHUR

Shri Vijay Bishnoi, for the appellant.

This special appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant.

The dispute relates to recovery proceedings under the Rajasthan Public Demand Recovery Act, 1952. The appellant is said to have mis-appropriated sum of Rs.2,87,752/- while executing some work as Gram Sewak at Heera-Ki-Dhani. It is not in dispute that the amount entrusted to the agent for execution of public work but misappropriated can be recovered as public demand. In the instant case, notice of recovery proceeding was issued to the appellant on 2.4.1999 but despite personal service, he did not file objection denying liability in terms of Section 8 of the Act. According to the appellant he had filed objection before the Tehsildar. Be that as it may, the District Collector passed final order directing recovery of sum of Rs.2,87,252/- with interest at the rate of 13% with effect from 2.4.1999. The appellant filed application to set aside the said order under order 9 rule 13 of the Code of Civil Procedure on 21.12.2005. After the said application

was rejected on 29.12.2005, he filed writ petition in this Court which was dismissed by the learned Single Judge. He has now come to the Division Bench in appeal.

After hearing counsel for the appellant, we do not find any error in the impugned order. From the order dated 15.6.2000 it is manifest that notice of the proceedings was personally served on the appellant, and even if the case of the appellant is assumed to be correct for a moment that he had filed objection before the Tehsildar in stead of the district Collector, nothing has been stated as to what steps the appellant took to pursue the so called objection before the Tehsildar. It is difficult to accept the ipsi dixit of the appellant that he filed objection before the Tehsildar and slept over the matter for over five years. The appellant is a public servant who was entrusted with the work and public money. He was clearly accountable for due execution of the work and having failed to satisfy the authority, the impugned order for recovery of the amount does not call for any interference.

We thus find no error in the order of the learned Single Judge. The appeal is dismissed.

[GOVIND MATHUR],J. [S.N.JHA],CJ.

Praveen